

**NATIONS UNIES
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**PROCEDURES SPECIALES DU
CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS
OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE
HUMAN RIGHTS COUNCIL**

Mandates of the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on the human rights of migrants; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on freedom of religion or belief; Special Rapporteur on the human rights of migrants; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 22/20, 17/12, and 25/13.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning the situation of Mr. [REDACTED], an Iranian asylum seeker, and his family who currently reside in the Republic of Cyprus.

According to information we have received:

Mr. [REDACTED] left the Islamic Republic of Iran over 13 years ago with his wife and two children (now aged 16 and 21 years respectively), reportedly to escape persecution for holding opinions critical of Islam. He arrived in Nicosia on 18 October 2000 and submitted a claim for asylum to the UNHCR on 20 October 2000, and again in mid-2002 to the Asylum Service of the Republic of Cyprus.

It is reported that from 2005 onwards, the Cypriot authorities stopped issuing visas to asylum seekers. It is alleged that since his arrival in Cyprus in 2000, Mr. [REDACTED] has been arrested and detained four times for visa-related issues by police and immigration authorities, including in the Menogia detention center from 15 March to 16 May 2013. Mr. [REDACTED] subsequently uploaded a video online denouncing harsh treatment at Menogia detention center by the Cypriot authorities and the guards. His wife was also detained for three months for visa issues. It is also reported that neither Mr. [REDACTED], nor his wife and children, have received any of the Government support to which asylum seekers are entitled.

Furthermore, it is alleged that key documents on Mr. [REDACTED]'s activities critical of Islam were removed from his asylum file and his case was subsequently evaluated and rejected without taking into consideration these documents, as is purportedly evidenced by the evaluation report of the Reviewing Authority for Refugees in Cyprus in 2006. On 10 December 2012, Mr. [REDACTED] reportedly submitted new documents to the Reviewing Authority in order to further support his asylum claim and reopen his case – this included information on a series of videos deemed to be anti-Islamic, which he had published online since the beginning of 2012.

According to the information received, Mr. [REDACTED] is at risk of torture in case of deportation to the Islamic Republic of Iran. It is furthermore reported that Mr. [REDACTED] may risk the death penalty if charged with apostasy and publicizing beliefs perceived by the Government as offending Islam. Concern is expressed that the request for asylum of Mr. [REDACTED] and his family may not be examined objectively and fairly, as it should be in the case of persons fleeing alleged religious or other persecution and seeking international protection.” Concern is also expressed regarding allegations that Mr. [REDACTED] is at real risk of torture and other cruel, inhuman or degrading treatment or punishment in case of deportation to the Islamic Republic of Iran. Further concern is expressed regarding allegations that Mr. [REDACTED] may face capital punishment should he be returned to his country of origin.

Without expressing at this stage an opinion on the facts of the case, we would like to recall that article 33.1 of the Convention relating to the Status of Refugees stresses that “No Contracting State shall expel or return (“refouler”) a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion”.

The Special Rapporteur on freedom of religion or belief has stressed in a thematic report to the General Assembly that an assessment of the implementation of apostasy or blasphemy laws and their effect is crucial to establishing persecution (see A/62/280, paras. 55-56), also referring to the UNHCR “Guidelines on international protection: religion-based refugee claims under article 1A(2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees”.

We would also like to bring to your Excellency’s attention article 6 (a), (d) and (i) of the 1981 General Assembly Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief (1981 Declaration, A/36/55), which provides that the right to freedom of thought, conscience, religion or belief includes the freedom “to worship or assemble in connection with a religion or belief”, “to write, issue and disseminate relevant publications in these areas”, and “to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels”.

We would also like to draw the attention of your Excellency’s Government to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading

Treatment or Punishment (CAT), which your Excellency's Government ratified on 18 July 1991, which provides that no State party shall expel, return (refouler), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, we deem it appropriate to refer to paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement."

We would also like to draw the attention of your Excellency's Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly which urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."

With regard to the past detention of Mr. [REDACTED] and his wife, we would like to draw your attention to article 9.1 of the International Covenant on Civil and Political Rights (ICCPR), which your Excellency's Government ratified on 2 April 1969, which provides that everyone has the right to liberty and security of person. The enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but "must also be available to all individuals, regardless of nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party" (CCPR/C/21/Rev.1/Add. 13 (2004), para. 10). The detention of migrants and asylum seekers should thus be a measure of last resort. The ICCPR further stipulates that all persons deprived of their liberty be ensured the right without delay to control by a court of the lawfulness of the detention (art. 9 (4)). For a more detailed overview of the international human rights standards governing the detention of migrants, including the obligation of States to always resort to alternatives to detention first, we would like to draw your attention to the Special Rapporteur on the human rights of migrants' 2012 report to the Human Rights Council (A/HRC/20/24).

We would appreciate a response about the initial steps taken by your Excellency's Government to safeguard the rights of Mr. [REDACTED] and his family in compliance with the aforementioned international standards.

Moreover, since it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your cooperation and your observations on the following matters:

1. Are the facts described in the above cases accurate?
2. Please provide details, including the legal basis, for denying asylum to Mr. [REDACTED], who has reportedly been persecuted in the Islamic Republic of

Iran for beliefs critical of Islam, and explain how these measures are compatible with the aforementioned international human rights standards.

3. Please provide details on whether any risk assessment was carried out by the Cypriot authorities to ascertain whether Mr. [REDACTED] and his family would be subjected to torture or other cruel, inhuman or degrading treatment or punishment or even the death penalty in case of deportation to the Islamic Republic of Iran.

4. Please provide detailed information on the measures taken to provide the support to which Mr. [REDACTED] and his family are entitled as asylum seekers.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Mr. [REDACTED] and his family are respected. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Heiner Bielefeldt
Special Rapporteur on freedom of religion or belief

François Crépeau
Special Rapporteur on the human rights of migrants

Juan E. Méndez
Special Rapporteur on torture and other cruel, inhuman or degrading
treatment or punishment